

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

DYSON TECHNOLOGY LIMITED )  
and DYSON, INC., )  
Plaintiffs, )  
v. ) Civil Action No. 05-434-GMS  
MAYTAG CORPORATION, )  
Defendant. )

**MOTION FOR LETTERS OF REQUEST TO THE JUDICIAL AUTHORITY  
IN THE UNITED KINGDOM**

**TO THE HONORABLE COURT:**

**NOW APPEARS** Maytag Corporation ("Maytag"), through its undersigned counsel, and respectfully moves this Court to issue Letters of Request directed to the appropriate judicial authority in the United Kingdom, The Masters' Support Unit, Royal Courts of Justice, Strand London WCA 2LL, England, for the production of documents and giving of testimony from Matthew Kitchin. This application is made pursuant to, and in conformity with, The Hague Convention on the Taking of Evidence in Civil or Commercial Matters, T.I.A.S. 7444, 23 Z.U.S.T. 2555, reprinted in 28 U.S.C.A. § 1781 (the "Hague Evidence Convention"), which is in force between the United States and the United Kingdom.

Counsel for Maytag has conferred with counsel for Dyson Technology Limited and Dyson, Inc. ("Dyson"). Dyson has indicated that it will not oppose this Motion for the issuance of Letters of Request to the Judicial Authority in the United Kingdom. Dyson has expressly reserved all other rights with respect to the requests.

In support of this Motion, Maytag states as follows:

1. As the Court is aware, Maytag seeks an injunction and damages against Dyson related to the packaging and advertising of certain models of its upright vacuum cleaners.

Maytag claims that Dyson, through various marketing campaigns, has made false and misleading statements as to the suction power, cleaning efficiency, and design and performance capabilities of certain models of its upright vacuums.

2. Maytag seeks the aid of this Court in obtaining the evidence and testimony of Matthew Kitchin, the former Design Engineer for Dyson Technology Limited. It is believed that Mr. Kitchin has documents and information that are relevant to the issues at hand. According to Dyson, Mr. Kitchin has knowledge regarding the testing of Dyson's U.S. vacuum cleaners, a central issue in this litigation that will shed light on Dyson's vacuum cleaners' suction power, cleaning efficiency, and design and performance capabilities.

3. On October 20, 2006, this Court allowed Maytag's requests for foreign discovery to the following United Kingdom entities: BSI, HI Europe, Frazer Nash Consultancy Ltd., Miles Calcraft Briginshaw, and Walker Media. This Court has also previously allowed foreign discovery under 28 U.S.C. § 1781 following a showing of the necessity of the discovery. *See also Tulip Computers Intl B.V. v. Dell Computers Corp.*, 254 F.Supp.2d 469, 474 (D. Del. 2003) (relating to foreign discovery pursuant to Hague Evidence Convention).

4. Mr. Kitchin was both identified by Dyson in its Initial Disclosures and in Dyson's Responses to Maytag's Interrogatories as a person with knowledge about the facts of the case, specifically regarding testing Dyson's U.S. vacuum cleaners.

5. Maytag believes that the information and testimony requested will be critical to proving the allegations it has proffered in these proceedings in that they will show, among other things, that Dyson's statements regarding its vacuum cleaners' suction power, cleaning efficiency, and design and performance capabilities are false or misleading.

**THEREFORE, MAYTAG RESPECTFULLY REQUESTS:**

- A. That the Court issue, and cause to be certified by the Clerk of the U.S. District Court for District of Delaware, Letters of Request addressed to the "Appropriate Judicial Authority in the United Kingdom," The Masters' Support Unit, Royal Courts of Justice, Strand, London WC2A 2LL, England;
- B. That said Letters of Request be issued in the form attached herewith requesting the summoning of Mr. Matthew Kitchin, by said United Kingdom's proper and usual process for summoning of production of documents and providing testimony.

Respectfully submitted,

/s/ Francis DiGiovanni

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Dated: December 4, 2006

**CERTIFICATE OF SERVICE**

I, Francis DiGiovanni, hereby certify that on December 4, 2006, copies of the foregoing document were served on the following counsel of record by e-mail:

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